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THE COMMONWEALTH OF MASSACHUSETTS
Office of the Inspector General

STATE AGENCY PURCHASING: PROBLEMS AND RECOMMENDATIONS

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EXECUTIVE SUMMARY

The State Purchasing Agent is responsible by law for making, directing, or approving all purchases of supplies, materials, and equipment needed by State agencies. The General Laws and the Purchasing Agent's current Manual of Purchasing Policies grants State agencies authority to purchase directly from vendors items costing less than \$500, items available on State blanket contracts, and items that the Purchasing Agent specifies in particular cases. Until mid-1986, agencies made these authorized direct purchases by filling out Departmental Purchase Orders (DPOs) and sending them directly to the Purchasing Agent's Division (PAD) for processing. The Massachusetts Management Accounting and Reporting System (MMARS), implemented in July of 1986, automated this process.

Last year, the Office of the Inspector General conducted a preliminary analysis of State agencies' pre-MMARS purchasing practices. The purpose of this analysis was to explore the extent to which the State's centralized competitive bidding process has been circumvented by agencies which "split purchases" -- i.e., divided what could have been a single procurement into several smaller DPO purchases, thus purchasing directly items costing \$500 or more. The analysis involved reviewing a sample of more than 6,700 DPOs issued by 25 State agencies.

The review suggested that agencies frequently exempted their purchases from the State's centralized competitive purchasing process without authorization. If the sample reflected State purchasing practices:

- Nearly 50 percent of all agencies¹ split their purchases to some extent.

¹A total of 25 State agencies appeared in the sample of DPOs. Agencies represented in the sample ranged from small units such as the Merit Rating Board to large departments such as the Department of Mental Health.

- Nearly a third of all noncontract procurements² of supplies and equipment which should have been bid, according to sound procurement practices,³ were instead split purchases.⁴
- Split purchases accounted for nearly half of all noncontract agency purchases between \$500 and \$2,000. In the case of one large State agency, split purchases accounted for over 60 percent of all noncontract purchases costing \$500 or more.

In reviewing DPOs for possible split purchases, the Inspector General's study team discovered other apparently inappropriate or unauthorized purchasing practices, including "over-limit purchases" (use of single DPOs to purchase items worth \$500 or more not available on State volume purchase contracts), "off-contract purchases" (use of DPOs to purchase items from vendors other than those who held State volume purchase contracts to supply such items to all State agencies), and "unconsolidated purchases" (purchases of identical or like items individually by several organizational units of a single State agency). Specifically, the study team found that:

- Unauthorized DPOs occasionally were written and processed for amounts exceeding the Purchasing Agent's \$500 limit, an indication that the PAD's controls were inadequate to prevent over-limit purchases.
- Agencies purchased items available on State volume purchase contracts from unauthorized vendors and at unauthorized prices which exceeded the contract price by more than 400 percent in some cases.

²"Noncontract procurements" exclude purchases made from the State's blanket contracts for supplies and equipment.

³The estimate of the total number of noncontract procurements which, based on sound procurement practices, should have been bid through the PAD was derived by adding two numbers: the number of agency procurements requisitioned through the PAD in FY 1986 and the number of agency noncontract procurements costing \$500 or more made directly, via split purchases, in FY 1986. The latter number was extrapolated from the sample results.

⁴Each split purchase was counted as one procurement, regardless of the number of DPOs involved.

- Agencies missed opportunities to aggregate unconsolidated purchases of identical or equivalent items into economical volume purchase agreements.

Interviews with agency and PAD officials revealed that these problems had multiple causes:

- Agency purchasing officials deliberately circumvented the PAD's centralized competitive procurement process in order to avoid delays and preserve choice in agency purchases.
- Workable sanctions for encouraging agency compliance with the PAD's requirements were not in place.
- The PAD devoted insufficient resources to ensuring that blanket contracts were sufficient in number and scope, that they were renewed on a timely basis, and that the supplies and equipment procured via these contracts matched agencies' needs.
- Agency purchasing managers were confused and misinformed about the procedures they were supposed to follow.
- Agency procurement planning needed significant improvement.
- The PAD reportedly lacked the resources needed to oversee agency purchases effectively and train agency purchasing officials.

Although the MMARS system is designed to prevent some improper DPO purchases, it is vulnerable to deliberate abuse. Moreover, it is not programmed to reduce or eliminate existing opportunities for split purchases. Thus, if the likelihood of detection remains low and sanctions for deliberate agency circumvention of the PAD's requirements remain weak or absent, agencies may continue to split their purchases under the MMARS system.

The Inspector General's State procurement bill, House No. 140, addresses State agencies' need for increased purchasing authority and flexibility, thereby reducing their incentive to split purchases. At the same time, the bill contains appropriate, enforceable sanctions for abuse of that authority. By increasing the size of the contracts competitively procured by the PAD from \$500 to \$5,000, the bill would enable the PAD to allocate its limited resources more efficiently. And by setting forth clear, workable requirements governing supply procurements, House No. 140

would provide a much-needed framework to guide agency purchasing officials as well as the PAD. The Inspector General urges the Legislature to enact House No. 140.

The Inspector General also offers the following recommendations:

- The PAD should prepare a comprehensive plan for improving its purchasing operations.
- The PAD should issue a new manual which clarifies its requirements and policies.
- The PAD should explore the feasibility of reducing the maximum processing time for purchase requisitions to 30 days.
- The PAD should improve the coverage and continuity of State blanket contracts.
- The PAD should improve its efforts to communicate with and train agency purchasing officials.
- The Administration should create an internal audit unit within the Executive Office for Administration and Finance.

INTRODUCTION

The State Purchasing Agent is responsible by law for making, directing, or approving all purchases of supplies, materials, and equipment needed by State agencies. Except as authorized by the Purchasing Agent, agencies are required to obtain supplies, materials, and equipment by submitting requisitions for specific items to the Purchasing Agent's Division (PAD). The PAD solicits competitive bids for the requisitioned items, receives and evaluates prospective vendors' proposals, and selects a successful supplier. The PAD then places a written order to the supplier for the desired items, at the supplier's competitively quoted prices, for delivery to the requisitioning agency.

This competitive centralized procurement process can produce important public benefits. Purchase prices can be minimized and the quality of purchased items can be closely matched to agencies' needs, thus maximizing the value obtained. Opportunities can be identified for consolidating repeated purchases of similar items into single high-volume procurements at significant price discounts. Public confidence in the fairness, openness, and competence of the Commonwealth's purchase decisions can increase, and the appearance of favoritism and impropriety can be reduced. Vendors' willingness to vie for the Commonwealth's business can grow, further enhancing public benefits.

Notwithstanding these valuable benefits, sound business practice suggests that, under certain circumstances, agencies should be permitted to purchase items directly from vendors without submitting requisitions to the PAD. The General Laws and the Purchasing Agent's current Manual of Purchasing Policies grants State agencies authority to purchase directly from vendors items costing less than \$500, items available on the State's volume purchase agreements (known as "blanket contracts"), and items that the Purchasing Agent specifies in particular cases. Until mid-1986, agencies made these authorized direct purchases by filling out Departmental Purchase Orders (DPOs) and sending them directly to the PAD, which reviewed them, stamped them "approved," and forwarded them to the

Comptroller's Office for encumbrance of agency funds and payment processing. The Massachusetts Management Accounting and Reporting System (MMARS), implemented in July of 1986, has automated this process.

Some of the authorized exceptions from centralized competitive purchasing allow the PAD to focus its resources on activities which offer the greatest potential savings, such as expanding volume purchase contracts and obtaining open competition in high-value purchases. In addition, some of the authorized exceptions from centralized competitive purchasing enable agencies to obtain needed items expeditiously.

An operational audit of the State's centralized purchasing system issued in 1979 by the State Auditor⁵ demonstrated that State agencies were obtaining many items directly which instead should have been bought through the open bidding process administered by the PAD for individual purchases and blanket contracts. In some cases, agencies' failure to obtain open competition clearly was deliberate: agency purchasing officials acknowledged that they simply split their purchases in order to circumvent the \$500 limit, thereby avoiding the delays and loss of control over procurement decisions inherent in the PAD's requisition process. In other cases, items that should have been requisitioned and purchased competitively through the PAD were instead purchased directly by agencies, apparently because agencies were confused about required procurement procedures, ignorant of blanket contracts, and lax in consolidating recurrent purchases of like items.

Last year, the Office of the Inspector General conducted a preliminary analysis of State agencies' pre-MMARS purchasing practices. The purpose of this analysis was to explore the extent to which the State's centralized competitive bidding process has been circumvented by agencies which "split purchases" -- i.e., divided what could have been a single procurement into several smaller DPO purchases, thus purchasing

⁵The Commonwealth's Centralized Purchasing System: Fundamental Improvements Are Needed, Thadeus Buczko, Auditor of the Commonwealth, 1979.

directly items costing \$500 or more. The analysis involved reviewing a sample of more than 6,700 DPOs issued by 25 State agencies.⁶ Selected DPOs which appeared to have been used to split purchases were discussed by telephone with the agency purchasing officials who had issued them. The findings of the analysis are summarized in the following pages.⁷

⁶Appendix A describes the methodology employed in conducting this analysis.

⁷Last October, a draft copy of this analysis was provided to the Executive Office for Administration and Finance, which oversees the PAD.

FINDINGS AND ILLUSTRATIONS

Finding 1.

Many Agencies Deliberately Circumvented The PAD's Competitive Bidding Requirements

Some agency purchasing officials acknowledged in telephone interviews that they had deliberately evaded the Purchasing Agent's competitive bidding process by either splitting purchases among multiple DPOs or issuing single DPOs whose value equaled or exceeded the \$500 ceiling on direct agency purchasing. They explained this behavior in a variety of ways, as summarized and illustrated below.

Explanation #1: The DPO process was far more expedient than the PAD purchase requisition process.

Some agency business managers interviewed by the Inspector General's study team complained that the PAD typically required at least two months, and often even three months, to complete the purchase requisition and bidding process and award a contract. They indicated that the compelling needs of their programs or clients justified their deliberate avoidance of the purchase requisition process. Some agency purchasing officials acknowledged that they or their staff had used DPOs to circumvent PAD requirements because the DPO process was a fast, convenient method of purchasing supplies from a vendor.

(EXAMPLE A)

DPO DATE	DPO NUMBER	QUANTITY ORDERED	ITEM DESCRIPTION	ITEM TOTAL	DPO TOTAL
08-02-85	437 666	15 gal 4 gal	Guide Traffic Paint-White ZOLV Freight	\$ 318.75 53.00 80.00	\$ 452.35
" "	437 667	15 gal	Guide Traffic Paint-Yellow	330.75	330.75
" "	437 668	1 1 cs	Line marker Grease	240.25 138.00	378.25

TOTAL SPLIT PURCHASE: \$ 1161.35

According to the above agency's business manager, these DPOs were issued during his predecessor's tenure. He stated that his predecessor had instructed the business office staff to avoid the \$500 ceiling by splitting large purchases into multiple smaller purchases.

(EXAMPLE B)

DPO DATE	DPO NUMBER	QUANTITY ORDERED	ITEM DESCRIPTION	ITEM TOTAL	DPO TOTAL
8-23-85	437 420	1	Air conditioner	\$ 444.25	\$ 444.25
" "	437 421	1	Air conditioner	444.25	444.25
" "	437 422	1	Air conditioner	444.25	444.25
" "	437 423	1	Air conditioner	444.25	444.25

TOTAL SPLIT PURCHASE: \$ 1777.00

The business manager responsible for the split purchase shown above explained that the four air conditioners, which he ordered on separate, same-day DPOs, were needed in a new part of a facility which served as a dormitory for program clients. He stated that the agency could not reasonably expect residents to endure the discomfort created by the absence of air conditioning while the PAD took the time necessary to obtain bids for air conditioners. He added that facility staff had not anticipated this problem when planning for the new wing of the facility.

Other business managers also contended that the length of time consumed by the purchase requisition process caused problems for their agencies. One manager stated that he was especially reluctant to risk requisitioning important items instead of ordering them on DPOs. As evidence of the delays endemic to the requisition process, he cited a requisition submitted to the PAD in January of 1986 for boosters used to control the water temperature of the agency's dishwashers. He stated that the bids were not opened until the end of April, and that the boosters would not be delivered until June. He added that delays in obtaining certain supplies and equipment affecting the agency's compliance with certain federally-mandated health and safety requirements could jeopardize the agency's federal funding. (These statements are

cited here as examples of the arguments with which business managers justified their evasion of the purchase requisition process. The study team did not attempt to verify the substance of this business manager's statements.)

PAD officials acknowledged that the purchase requisition process often took two or three months to complete. The PAD's own internal performance standards called for a 60-day processing time for simple requisitions and a 90-day processing time for complicated requisitions. Simple requisitions involved items such as garden tools and paper products; complicated requisitions, which required the PAD to prepare detailed specifications, involve items such as medical testing equipment and automotive parts. Starting in November of 1985, the PAD recorded its requisition processing times and generated a biweekly requisition report which lists all requisitions requiring 60 to 90 days to process as well as all requisitions requiring more than 90 days to process. According to the Deputy Purchasing Agent, PAD officials reviewed all requisitions in the latter category to determine the reasons for the delays. The reasons typically included the following: the item had to be rebid, the PAD received a protest from one or more vendors, the agency requisitioning the item required extra time to review the specifications developed by the PAD, or the PAD handled the requisition inefficiently.

According to the Deputy Purchasing Agent, the average PAD processing time for all requisitions was 60 days during the first two weeks of May, 1986. The Deputy Purchasing Agent stated that the PAD would be able to reduce the average processing time for purchase requisitions if the PAD were "minimally manned": that is, if the PAD were able to add seven to nine new staff.

Explanation #2: The PAD failed to renew blanket contracts on a timely basis.

The PAD's Manual of Purchasing Policies defines blanket contracts as "contracts...entered into with suppliers to furnish certain of these items at definite prices, covering certain specified periods of time."

As of mid-1986, the State had approximately 400 blanket contracts. Some business managers stated in interviews that lapses in blanket contracts had necessitated their split purchases.

(EXAMPLE C)

DPO DATE	DPO NUMBER	QUANTITY ORDERED	ITEM DESCRIPTION	ITEM TOTAL	DPO TOTAL
10-23-85	577 334	25 cs	Plastic forks	\$ 307.50	\$ 307.50
" "	577 335	25 cs	Plastic knives	307.50	307.50
" "	577 336	40 cs	Plastic teaspoons	492.00	492.00

TOTAL SPLIT PURCHASE: \$ 1107.00

According to the business manager who submitted the DPOs shown above, his agency customarily purchases plastic utensils from a State blanket contract. However, the supplier's contract with the State expired on November 15, 1985; as of November 23, 1985, when the agency needed more plastic utensils, the PAD had not yet renewed the contract.

A business manager at a different agency confirmed that blanket contract lapses occurred. For example, he stated that the State's blanket contract for laundry detergent expired January 31, 1986, but was not renewed until February 15, 1986; moreover, he stated that he did not receive a copy of the contract until March 27, 1986. Consequently, he procured the laundry detergent on DPOs in small quantities rather than requisitioning this item through the PAD. (These DPOs did not appear in the sample.) The same business manager also cited a four-month contract lapse for automobile batteries and a five-month contract lapse for trash liners.

PAD officials acknowledged that some contract lapses had occurred. However, they maintained that contract lapses did not exempt agencies from the PAD requirement that agencies contact the PAD in the event of emergencies or urgent situations. According to PAD officials, agencies affected by blanket contract lapses were likely to be granted permission to purchase the necessary items on DPOs until the applicable blanket

contract was renewed. Alternatively, the PAD could approve a limited purchase agreement between an agency and a supplier for a specified period of time. PAD officials also pointed out that, by contacting the PAD to obtain the pertinent contract information, agencies could order goods from new blanket contracts before receiving their copies of the contracts.

Explanation #3: Items available through State blanket contracts or PAD requisitions were deficient.

Several business managers justified their split purchases by stating that the items procured by the PAD via competitive bids did not meet their agencies' needs.

(EXAMPLE D)

DPO DATE	DPO NUMBER	QUANTITY ORDERED	ITEM DESCRIPTION	ITEM TOTAL	DPO TOTAL
11-21-85	585 433	5 cs 6 cs	Dishwashing soap Laundry detergent	\$ 163.15 222.30	\$ 385.45
" "	585 453	4 cs 10 cs	Rinse & Dry Grease cutter	157.20 195.00	
					352.20

TOTAL SPLIT PURCHASE: \$ 737.65

The business manager responsible for the split purchase shown above stated that the brand of laundry detergent available under blanket contract was too soapy and caused the agency's program clients to break out in rashes; therefore, the agency purchased an alternate brand on DPOs.

(EXAMPLE E)

DPO DATE	DPO NUMBER	QUANTITY ORDERED	ITEM DESCRIPTION	ITEM TOTAL	DPO TOTAL
08-27-85	534 297	20 cs	Kimetex towels	\$ 455.00	\$ 455.00
08-30-85	534 298	20 cs	Kimetex towels	455.00	455.00
09-03-85	534 299	20 cs	Kimetex towels	455.00	455.00

TOTAL SPLIT PURCHASE: \$ 1365.00

The business manager responsible for the preceding split purchase stated that he purchased the towels on DPOs because the towels delivered to his agency by the contract vendor selected by the PAD did not match the vendor's sample shown to the business manager prior to the contract award.

According to PAD officials, the PAD had recently hired two full-time specification engineers to monitor the quality of the specifications which went out to bid. Eventually, the PAD planned to review the specifications of all blanket contracts. PAD officials noted that agencies who experienced problems with contract items could have completed a PAD complaint form; however, they stated that the PAD lacked sufficient staff to canvass agency reactions to the items procured by the PAD.

Explanation #4: The PAD failed to include commonly purchased items on State blanket contracts.

The absence of blanket contracts for certain items was another explanation offered by agencies who had split their purchases on DPOs.

(EXAMPLE F)

DPO DATE	DPO NUMBER	QUANTITY ORDERED	ITEM DESCRIPTION	ITEM TOTAL	DPO TOTAL
11-08-85	554 747	5 ctns	Dry ink	\$ 475.00	\$ 475.00
" "	554 749	3 ctns	Developers	459.00	459.00
" "	554 750	3 ctns	Dry ink	459.00	459.00
11-14-85	554 745	1 ctn	Developers	221.33	372.48
		1 ctn	Developers	151.20	
11-15-85	554 748	3 ctns	Developers	411.74	411.74

TOTAL SPLIT PURCHASE: \$ 2177.22

The business manager for this agency stated that he had purchased the printing supplies listed above on DPOs because these supplies were

not under blanket contract. He acknowledged that he had split the purchase so that the total value of each DPO would not exceed the permissible \$500 DPO ceiling.

Although a number of agency purchasing officials interviewed during the review justified their split purchases by citing the absence or deficiencies of blanket contracts, it is important to note that these agencies could have requisitioned the noncontract items they needed rather than splitting their purchases on DPOs. Thus, while the criticisms of PAD operations implicit in explanations #2, #3, and #4, above, may have been valid, they did not fully account for these agencies' circumvention of PAD requirements.

According to the Deputy Purchasing Agent, the two full-time specification engineers recently hired by the PAD had begun to address the need for improved coverage of blanket contracts.

Explanation #5: Agencies failed to forecast their procurement requirements systematically and accurately.

A number of agency representatives acknowledged in interviews that they had deliberately split their purchases of supplies because they had been caught short: that is, they had failed to anticipate and plan for their procurement needs.

(EXAMPLE G)

DPO DATE	DPO NUMBER	QUANTITY ORDERED	ITEM DESCRIPTION	ITEM TOTAL	DPO TOTAL
06-28-85	467 335	1	Air conditioner	\$ 490.00	\$ 490.00
" "	467 337	1	Air conditioner	490.00	490.00

TOTAL SPLIT PURCHASE: \$ 980.00

The business manager of this agency indicated that two air conditioners were purchased on the same day on separate DPOs because the

agency had failed to anticipate that its new computer system would require an air-conditioning system. The computer system could not be installed until the air conditioners were in place.

(EXAMPLE H)

DPO DATE	DPO NUMBER	QUANTITY ORDERED	ITEM DESCRIPTION	ITEM TOTAL	DPO TOTAL
09-10-85	511 182	80 pr	Men's sneakers	\$ 500.00	\$ 500.00
" "	511 183	91 pr	Ladies' sneakers	477.75	477.75

TOTAL SPLIT PURCHASE: \$ 977.75

The business manager stated that the above same-day purchase of 171 pairs of sneakers was attributable to the agency's poor planning. However, he added that the agency was accustomed to purchasing sneakers from the State's blanket contract, which had lapsed at the time that this purchase was made.

Explanation #6: Agencies lacked storage space to stockpile frequently used supplies.

Several agency purchasing officials justified their use of split purchases by citing their agencies' inability to stockpile large quantities of materials. (See Example I.)

(EXAMPLE I)

DPO DATE	DPO NUMBER	QUANTITY ORDERED	ITEM DESCRIPTION	ITEM TOTAL	DPO TOTAL
11-08-85	577 408	2	Hubbell	\$ 450.00	\$ 450.00
" "	577 409	780	Wire	483.60	483.60
" "	577 424	1	SQD QOB250	14.50	
		30	Lamp	25.26	
		30	Lamp	37.80	
		1	Sump pump	135.00	
		1	SQD 100A	72.50	
		1	SQD load	6.75	
					291.81
" "	577 428	1	Pocket knife	11.20	
		50	Conduit	31.31	
		1	Wall lanter	57.75	
		1	Lamp	2.48	
		1	Cond body	8.78	
		100	Conduit	21.00	
		1	Conduit	4.41	
		6	Oil burner	2.06	
		1	Adj wrench	6.85	
		1	Adj wrench	7.51	
		1	Adj wrench	9.66	
		25	Adj ring	33.16	
		30	Lamp	79.20	
		2	Lamp	8.48	
					284.35
" "	577 446	4	Wrap-around	226.00	226.00
" "	577 452	6	Circline	464.52	
		6	Lamp	22.80	
					487.32

TOTAL SPLIT PURCHASE: \$ 2223.08

The above agency's business manager stated that the agency's in-house maintenance staff submitted internal requisitions to him for supplies as they were needed. The agency did not consolidate and requisition these purchases because it lacked the necessary storage space. Another agency business manager complained that the State's purchasing system was geared toward bulk purchases, whereas his agency lacked sufficient storage space and funds to purchase supplies in bulk. The Deputy Purchasing Agent acknowledged that many PAD contracts required minimum orders which exceeded the needs of smaller agencies.

Explanation #7: Agencies obtained informal authorization to forgo competitive bidding.

Several agency purchasing officials stated that various personnel within the PAD and the Comptroller's office had given them permission to exceed the \$500 DPO ceiling.

(EXAMPLE J)

DPO DATE	DPO NUMBER	QUANTITY ORDERED	ITEM DESCRIPTION	ITEM TOTAL	DPO TOTAL
			<u>Vendor #1</u>		
10-18-85	389 207		Misc. arts and crafts	\$ 825.00	\$ 325.00
10-22-85	389 208		Misc. arts and crafts	350.00	350.00
11-19-85	389 224		Misc. arts and crafts	348.42	348.42
			<u>Vendor #2</u>		
10-22-85	389 209		Misc. arts and crafts	671.50	671.50
11-20-85	389 225		Misc. arts and crafts	622.90	622.90

TOTAL SPLIT PURCHASE: \$ 2817.32

The above example includes recurrent DPOs as well as over-limit DPOs. The agency's business manager explained that, several years ago, the agency staff person responsible for procuring arts and crafts supplies was instructed to make all purchases directly from the two vendors referred to above. The instruction was conveyed on a handwritten note on Executive Office for Administration and Finance letterhead. Since then, agency personnel had assumed that they were authorized to purchase these supplies directly from the two vendors cited in the note.

(EXAMPLE K)

DPO DATE	DPO NUMBER	QUANTITY ORDERED	ITEM DESCRIPTION	ITEM TOTAL	DPO TOTAL
11-25-85	554 939	12 Rolls 2 Cases	Platemaker Film Fountain Concentrate	\$ 1339.20 75.20	\$ 1414.40

TOTAL PURCHASE: \$ 1414.40

The sample DPO corresponding to Example K bore the typewritten words: "SOLE SOURCE VENDOR." When asked about this over-limit purchase, the agency spokesman stated that the previous Purchasing Agent had authorized the agency to exceed the \$500 ceiling for the vendor in question. When the new Purchasing Agent took office, the over-limit DPOs for this vendor were returned to the agency. However, according to the agency spokesman, a senior PAD buyer subsequently instructed the agency to type "SOLE SOURCE VENDOR" on future DPOs issued to this vendor and gave oral assurances that the DPOs would be approved. The agency did not document this conversation, nor did the agency receive written confirmation from the PAD.

The PAD's Manual of Purchasing Policies outlines two types of procedures for obtaining an exemption from PAD requirements. Agencies may make "emergency purchases," defined as those purchases deemed necessary to "protect life and property," by telephoning the PAD for permission. "Other purchases with special permission" may be granted on a one-time or continuing basis. However, continuing permission to depart from the \$500 ceiling must be granted by the Purchasing Agent in writing.

According to the Deputy Purchasing Agent, agencies requesting a waiver of the PAD's competitive bidding requirements were required to submit their requests to the PAD in writing (except in the case of emergencies, as defined above), solicit bids for the supplies being procured, and submit the results of their bid solicitations to the PAD for approval. This procedure was not followed in either of the cases cited above.

Explanation #8: Agencies created their own purchasing rules and policies.

Many agency purchasing officials interviewed initially justified their purchasing behavior with explanations which appeared to misconstrue the PAD's requirements. Upon further questioning, some of these officials acknowledged that they had invented these rationales. While

they believed them to be reasonable, they appeared cognizant of the fact that their purchasing behavior had violated PAD requirements. For example, one business manager explained that departments within his agency often collected and held their procurement requests until they received their quarterly budget allotments, at which time they sent all their requisitions to the business manager. Many of these requests involve similar or identical supplies. Rather than consolidating these requests and submitting purchase requisitions through the PAD, or issuing a series of same-day DPOs for these items, the business manager tried to "space out" a series of DPOs over a few days or a week. Shown below are two examples of such deliberate split purchases:

(EXAMPLE L)

DPO DATE	DPO NUMBER	QUANTITY ORDERED	ITEM DESCRIPTION	ITEM TOTAL	DPO TOTAL
07-29-85	533 810	15 cs	Masking tape	\$ 432.00	\$ 432.00
08-05-85	533 813	15 cs	Masking tape	432.00	432.00

TOTAL SPLIT PURCHASE: \$ 864.00

(EXAMPLE M)

DPO DATE	DPO NUMBER	QUANTITY ORDERED	ITEM DESCRIPTION	ITEM TOTAL	DPO TOTAL
08-07-85	533 903	18 prs	Bed rail pads	\$ 486.00	\$ 486.00
08-12-85	533 909	18 prs	Bed rail pads	486.00	486.00
08-15-85	533 914	18 prs	Bed rail pads	486.00	486.00
08-21-85	533 919	4 prs	Bed rail pads	108.00	108.00

TOTAL SPLIT PURCHASE: \$ 1566.00

The business manager who submitted the recurrent DPOs shown above stated that he did not issue purchase requisitions for the bed rail pads because the departments within his agency needed the items right away. He added that the PAD had never questioned his practice of spacing out DPOs for identical items.

Another creative interpretation of the PAD's requirements concerns over-limit purchases of noncontract items from vendors with whom the State holds blanket contracts. The following DPOs illustrate this situation.

(EXAMPLE N)

DPO DATE	DPO NUMBER	QUANTITY ORDERED	ITEM DESCRIPTION	ITEM TOTAL	DPO TOTAL
09-06-85	387 872	4 cs	Forks	\$ 114.82	\$ 738.83
		4 cs	Knives	131.43	
		4 cs	Teaspoons	131.43	
		1 cs	Soup Spoons	32.86	
		1 cs	Plastic Coffee Stirrers	12.04	
		2 cs	9 oz. Cold Drink Cups	130.67	
		2 cs	12 oz. Cold Drink Cups	157.18	
		2 cs	8 oz. Styrofoam Cups	28.40	
09-09-85	387 631	4 cs	10" Plates	146.04	825.19
		4 cs	9" Plates	140.83	
		4 cs	Forks	104.06	
		3 cs	Knives	78.05	
		3 cs	Teaspoons	78.05	
		1 cs	12 oz. Cold Drink Cups	78.59	
		2 cs	White Table Covers	132.65	
		1 cs	2 Ply White Napkins	36.88	
		1 cs	6" Plates	30.04	
09-16-85	387 337	2 cs	6" Plates	60.08	556.10
		2 cs	10" Plates	92.48	
		2 cs	9" Plates	70.42	
		1 cs	9 oz. Cold Drink Cups	65.33	
		1 cs	12 oz. Cold Drink Cups	78.59	
		2 cs	2 Ply White Napkins	74.60	
		1 cs	Forks	26.02	
		1 cs	Teaspoons	26.02	
		1 cs	White Table Covers	62.56	
09-18-85	387 873	3 cs	5 oz. Bowls	\$ 94.22	1199.42
		1 cs	12 oz. Bowls	41.41	
		2 cs	Red Gingham Table Covers	152.17	
		4 cs	10" Plates	184.96	
		3 cs	9" Plates	105.62	
		3 cs	6" Plates	90.12	
		3 Rolls	Aluminum Foil	81.91	
		1 cs	Sheet Cake Pan	72.82	
		1 cs	Full Size Steam Table Pan	56.77	
		2 cs	White Paper Table Cloths	132.08	
		1 cs	5 oz. Plastic Glasses	34.92	
		1 cs	7 oz. Plastic Glasses	19.90	
		2 cs	Plastic Beer Glasses	80.24	
		1 cs	White Napkins	37.30	
			Estimate Handling Charge	14.98	

TOTAL SPLIT PURCHASE: \$ 3319.54

Although these over-limit purchases were made from a vendor with whom the State holds a blanket contract, the items purchased were not under the contract. The business manager responsible for the DPOs stated that a PAD buyer had given him oral approval to use DPOs to purchase noncontract items costing more than \$500 from contract vendors. However, the PAD's Manual of Purchasing Policies makes no allowance for this practice.

(EXAMPLE O)

DPO DATE	DPO NUMBER	QUANTITY ORDERED	ITEM DESCRIPTION	ITEM TOTAL	DPO TOTAL
08-28-85	554 548	4	#11 Dual Vendor Releases	\$ 564.00	\$ 564.00

TOTAL PURCHASE: \$ 564.00

A third creative interpretation was provided by the agency purchasing official responsible for the DPO shown above. The agency purchasing official explained that his agency had purchased exact replacements for napkin dispensers to be mounted on existing brackets. He had assumed that if an agency needed to purchase an exact replacement for an item, it was permissible to do so on a DPO without competition. Upon further questioning, he acknowledged that the PAD had not endorsed this interpretation.

Finding 2.

Many Agencies Inadvertently
Failed To Comply With the PAD's
Competitive Bidding Requirements

Some agency purchasing officials expressed confusion regarding the applicability of the \$500 DPO ceiling to the types of purchases they had made using recurrent DPOs. While the sincerity of such explanations is difficult to assess, the frequency with which some misinterpretations were articulated suggests that at least some of these agencies were genuinely confused or misinformed. The most common misinterpretations of the PAD's requirements are listed and illustrated below.

Misinterpretation #1: The \$500 ceiling for direct agency purchases applies only to same-day purchases.

Some agency purchasing officials stated that they construed the PAD ceiling to mean that agencies may not split same-day purchases into separate DPOs. However, they pointed out that the PAD has not established a time limit within which the \$500 ceiling is applicable.

(EXAMPLE P)

DPO DATE	DPO NUMBER	QUANTITY ORDERED	ITEM DESCRIPTION	ITEM TOTAL	DPO TOTAL
10-17-85	437 565	3 cs	Hand soap	\$ 40.50	\$ 235.73
		2 cs	Deodorant	94.24	
		4 cs	Shampoo	51.44	
		3 doz	Combs	5.76	
		1 cs	Sanitary napkins	43.79	
10-18-85	437 568	12 doz	Combs	23.04	369.63
		6 cs	Shampoo	77.16	
		4 cs	Deodorant	188.48	
		6 cs	Hand soap	81.00	

TOTAL SPLIT PURCHASE: \$ 605.41

The business manager responsible for the above DPOs stated that he believed they were permissible, since each DPO totaled less than \$500 and the DPOs were not issued simultaneously.

The PAD's Manual of Purchasing Policies explicitly authorizes agencies to make direct purchases of noncontract items on DPOs when the total purchase costs less than \$500. The Manual also states: "This authority does not permit the purchase of the same items on a day-to-day basis. State agencies should anticipate their needs on a four months' basis conforming to the allotment period and submit requisitions to the Purchasing Agent's Division on this basis, whenever practical. The submission of many small requisitions should be avoided." The Manual does not explain or provide illustrative examples of the prohibited purchasing practices, however. From the prohibition on purchases of the same item on a "day-to-day basis," one can infer that agencies are not permitted to submit DPOs for identical items two days in a row. However, the time limit beyond which recurrent DPOs are permissible is unspecified.

When asked about the PAD's time limit for enforcing the \$500 ceiling, PAD officials expressed reluctance to establish a specific limit within which recurrent DPOs would or should not be permitted. According to the Deputy Purchasing Agent, DPOs issued to the same vendors for the same or similar items on the same day clearly violated PAD requirements; DPOs issued within the same week "probably" violated PAD requirements; beyond one week, the question of whether or not recurrent DPOs constituted a split purchase is a "gray area." The Deputy Purchasing Agent maintained that many agencies whose purchases fell into this gray area had no intention of violating PAD policies: they simply discovered that they had not accurately forecast their needs.

Misinterpretation #2: The \$500 DPO ceiling applies only to purchases of identical items.

Some agency purchasing officials appeared to operate on the assumption that nonidentical items could be purchased from the same vendor on recurrent DPOs even if the items were closely related and could be bid out together. The sample contained a number of split purchases illustrating this type of behavior.

(EXAMPLE Q)

DPO DATE	DPO NUMBER	QUANTITY ORDERED	ITEM DESCRIPTION	ITEM TOTAL	DPO TOTAL
08-06-85	511 114	4 boxes	Raisinettes	\$ 25.20	\$ 278.40
		9 boxes	Junior mints	85.05	
		1 box	Marshmallows	24.00	
		1 cs	Crackers	4.50	
		3 cs	Crackers	13.50	
		6 boxes	Cheese curls	60.00	
		3 boxes	Raisins	28.35	
		4 boxes	Kit Kats	37.80	
" "	511 117	2 boxes	Crackers	12.60	81.10
		3 boxes	Baby Ruth	28.35	
		3 boxes	Hershey kisses	18.90	
		1 box	Necco wafers	9.45	
		1 box	Trail granola	5.50	
		1 box	Peanuts	6.30	
" "	511 118	20 boxes	Crackers	90.00	447.50
		10 boxes	Reese's pieces	94.50	
		20 cs	Cheese popcorn	100.00	
		10 boxes	Malted milk balls	63.00	
		10 cs	Corn crisps	100.00	
08-07-85	511 119	10 cs	Raisinettes	94.50	467.50
		10 cs	Cheese curls	100.00	
		15 cs	Potato chips	105.00	
		7 cs	Marshmallows	168.00	
" "	511 122	20 boxes	Cookies	90.00	471.00
		10 boxes	M & M's	126.00	
		10 cs	Cheese curls	100.00	
		15 cs	Potato chips	105.00	
		10 cs	Cheese popcorn	50.00	
" "	511 608	1 box	Gum	5.40	51.30
		1 box	Candy bars	9.45	
		1 box	Candy bars	9.45	
		1 cs	Coca Cola	10.00	
		1 cs	Coca Cola	10.00	
		1 cs	Potato chips	7.00	

TOTAL SPLIT PURCHASE: \$ 1796.80

The business manager responsible for approving the split purchase shown above stated that he did so because the items purchased were dissimilar, and therefore the DPOs were allowable. (Each DPO totaled less than \$500, in conformance with PAD requirements.)

According to the Deputy Purchasing Agent, the \$500 DPO ceiling applied to related items as well as identical items. (Related items are defined as those items whose commodity codes fall within the same commodity group.) All of the items listed in the above six DPOs fell within the same commodity group.

Misinterpretation #3: The \$500 DPO ceiling applies only to purchases charged to the same appropriation account.

Within some agencies, each organizational unit budgets and pays for its own expenses. Typically, the managers of these units submitted internal requisitions to the agency's central office; the business manager at the central office then completed and submitted the DPOs or purchase requisitions to the PAD and charged the cost of the purchases to the units' appropriation accounts.

Some agency purchasing officials expressed the belief that simultaneous or recurrent DPOs whose combined value exceeded \$500 were allowable under existing PAD requirements if the individual DPOs originated in different organizational units of an agency and were therefore charged to different appropriation accounts.

(EXAMPLE R)

DPO DATE	DPO NUMBER	QUANTITY ORDERED	ITEM DESCRIPTION	ITEM TOTAL	DPO TOTAL
10-07-85	303 469	105,000	EDP Labels Shipping	\$ 236.25 20.00	\$ 256.25
" "	303 470	105,000	EDP Labels Shipping	236.25 20.00	256.25
" "	303 471	105,000	EDP Labels Shipping	236.25 20.00	256.25

TOTAL SPLIT PURCHASE: \$ 768.75

The business manager responsible for this same-day split purchase stated that he believed these recurrent DPOs were permissible since each DPO was requested by and credited to a different agency appropriation account. However, the Deputy Purchasing Agent stated that the \$500 DPO ceiling applied to the agency as a whole, not to each individual department or organizational unit within the agency.

Misinterpretation #4: The \$500 DPO ceiling does not apply to purchases which are difficult to forecast or consolidate.

Some agency representatives argued that certain purchases which were difficult to specify in advance because they involved items used on an "as-needed" basis were exempt from the \$500 ceiling. These items consisted primarily of automotive parts and renovation materials. (See Example S.)

(EXAMPLE S)

DFO DATE	DFO NUMBER	QUANTITY ORDERED	ITEM DESCRIPTION	ITEM TOTAL	DFO TOTAL
11-29-85	577 501	16	Rod bearing	\$ 57.60	
		2	Main bearing	65.84	
		2	Oil pumps	59.76	
		2	Oil pick ups	12.64	
		10 cs	Oil	160.80	
					\$ 356.64
" "	577 502	20 cs	Oil	379.60	379.60
" "	577 507	20 cs	Oil	456.60	456.60
" "	577 514	3	Gasket paper	22.02	
		1	Eng kit	169.10	
		6	Dist rotors	10.56	
		6	Dist caps	56.64	
		6	Dist rotors	19.62	
		6	Dist rotors	12.60	
		6	Dist caps	37.33	
		6	Filter	23.10	
		60	Plugs	99.00	
					450.02
" "	577 517	12	Switches	46.80	
		2	Gaskets	8.40	
		2	Gaskets	10.36	
		2	Dist	97.60	
		3	Gaskets	161.16	
		2	Eng rings	144.00	
					468.32
" "	577 519	40	Straops	48.00	
		1	Charger	259.95	
		2	Solenoids	35.20	
		2	Starter	132.90	
					476.05
" "	577 522	300	Terminals	79.90	
		2	Wire	70.24	
		135	Terminals	52.67	
		1	Carb kit	16.03	
		6	Resistors	10.20	
		1	Starter	59.45	
		2	Riming gear	25.24	
		1	Riming chain	19.20	
		2	Alt	132.20	
					465.13
" "	577 523	12	Filters	114.72	
		1 pr	Jack stands	54.78	
		1	Carb kit	18.86	
		1	Starter	62.25	
		2	W belts	25.62	
		2	Shocks	41.90	
		2	Shocks	41.90	
		4	Caliper pistons	54.60	
					414.63
" "	577 525	8 cs	Oil	136.64	
		1	Oil can	6.11	
		1	Dist	48.10	
		1	Tester	12.38	
		1	ATD tool	3.85	
		1	Floor jack	169.95	
					377.03
" "	577 526	1	Jack	78.26	
		1	Fan	126.38	
					204.64

TOTAL SPLIT PURCHASE: \$ 4048.66

The business manager of the agency which submitted these same-day DPOs for automotive parts stated that it would have been impractical for him to attempt to specify in advance all the parts the agency's vehicle fleet would require.

According to the Deputy Purchasing Agent, purchases which were difficult to specify in advance or consolidate were not exempt from the \$500 DPO ceiling. However, the PAD Manual of Purchasing Policies -- in a rather confusing parenthetical section -- implies that some maintenance-related items may be exempt from the requisition process. The Manual states: "The following items listed under this subsidiary account number must be purchased through the Purchasing Agent's Division: ...Maintenance Repairs and Materials (except Brick, 1000 and under, and repair parts)..." [emphasis added]

Misinterpretation #5: The \$500 DPO ceiling does not apply to purchases from small business enterprises or minority business enterprises.

Some agency purchasing officials expressed the view that the State's SBE and MBE regulations permitted them to purchase noncontract items on DPOs from qualified small and minority businesses even if the purchases constituted split purchases or exceeded the \$500 ceiling for noncontract items. One business manager stated that he routinely issued DPOs exceeding \$500 for noncontract items to a vendor which was a minority business enterprise. Although he was aware of the \$500 DPO ceiling, he believed that the PAD's minority purchasing requirements superseded the \$500 ceiling. However, according to the PAD's purchasing handbook for its buyers, only competitive awards count towards the State's set-aside goals. The handbook states: "All DPOs [which order items from] a blanket contract will count, as the original award was competitive, but agency DPOs for under \$500.00 to a certified small business generally will not, as they are normally non-competitive in nature. Likewise, any sole source award, regardless of value, will not help the State reach the overall 5% goal."

Misinterpretation #6: If the PAD approves the DPO, the DPO is permissible.

A number of agency purchasing officials defended their purchasing behavior by pointing out that the PAD had approved the DPOs in question, thereby demonstrating to their agencies that the DPOs had complied with PAD requirements. "We have tested the system, and it works," one business manager commented. "We've gotten what we wanted." Another business manager corroborated this viewpoint: "Everyone's doing what they can until they get stuck...If it's not okay, someone will tell us."

Under the pre-MMARS system which was in effect at the time that the split purchases were approved, incoming DPOs were reviewed manually by three PAD employees who performed this task on a rotating basis. According to the PAD's written procedures for handling DPOs prior to the implementation of the MMARS system, the reviewer checked each DPO for the correct agency number, the vendor code, and the commodity code number. The procedures instructed the PAD reviewer to check DPOs totalling under \$500 to ensure that certain items were purchased from designated agencies, such as the Department of Correction and the Commission for the Blind; the procedures further stated that surveillance "should always be maintained for abuse of the \$500 rule via several DPO's under \$500 to the same vendor for items that should go out to bid via the requisition procedure to the Purchasing Agent's Division." In the case of DPOs totalling \$500 or more, the procedures instructed the PAD reviewer to ensure that the item was being purchased under a blanket contract and from an approved vendor. If the reviewer identified a problem with the DPO, the reviewer was supposed to return the DPO to the initiating agency with an explanatory form letter. If the DPO was approved by the PAD, the DPO was stamped and forwarded to the Comptroller's office. The PAD's stated objective was to process incoming DPOs within one day.

In practice, however, the Deputy Purchasing Agent acknowledged that the PAD was not systematically monitoring agency compliance with the PAD's DPO requirements. He pointed out that the PAD was unable to

perform this function with the meager staff resources available -- one full-time person responsible for reviewing approximately 500 DPOs each day -- while meeting the PAD objective of a one-day turnaround time for processing these DPOs. The study team's examination of the sample DPOs confirmed that the PAD was not reviewing all DPOs submitted by agencies: almost half of the sample DPOs involving split purchases lacked the PAD stamp, which stated, "Reviewed P.A.D." along with the review date. Moreover, the fact that more than half of the sample DPOs involving split purchases had been stamped and approved by the PAD indicated that the PAD's review was inadequate to detect agency noncompliance with the PAD's DPO requirements.

Under the pre-MMARS system, the PAD generated a monthly computer run of DPOs processed. This DPO report contained sufficient detail to enable the PAD to spot violations of the \$500 ceiling. However, although PAD officials consulted the DPO report if they received notification of problems or questions in connection with a specific agency or purchase, they did not conduct systematic postaudits of agency compliance, nor did they routinely notify agencies whose violation of the \$500 ceiling was discovered after the fact. Again, staffing shortages precluded these activities.

Nevertheless, the Deputy Purchasing Agent maintained that "ignorance of the law...[was] no excuse" for agency circumvention of PAD requirements. He emphasized that agencies with questions about the PAD's requirements could always call the PAD to obtain clarification.

Finding 3.

Many Agency Purchases Which
Complied With All Current PAD Requirements
Nevertheless Were Noncompetitive

The sample contained a number of recurrent DPOs which spanned time periods in excess of one week. PAD officials stated that they did not consider this type of behavior to violate PAD requirements, since the agencies responsible for the repetitive DPOs may not have intended to split their purchases for the purpose of evading the \$500 DPO ceiling. While it seems reasonable to assume that many cases in this category resulted from poor agency planning rather than willful circumvention of PAD requirements, most of the purchases in this category probably could have been consolidated and competitively bid.

(EXAMPLE T)

DPO DATE	DPO NUMBER	QUANTITY ORDERED	ITEM DESCRIPTION	ITEM TOTAL	DPO TOTAL
09-06-85	590 935	20 rolls	Webbing (1")	\$ 495.00	\$ 495.00
09-10-85	590 934	5 rolls	Webbing (4")	422.50	422.50
10-15-85	589 608	4 rolls	Webbing (1")	99.00	99.00
11-14-85	591 000	10 rolls	Webbing (1")	247.50	247.50

TOTAL SPLIT PURCHASE: \$ 1264.00

The agency purchasing official responsible for these DPOs stated that two departments within her agency frequently submitted internal requisitions for webbing to the business manager's office. She agreed that webbing was a good candidate for a blanket contract.

The sample also contained a series of DPOs for soft drinks. (See Example U.)

(EXAMPLE U)

DPO DATE	DPO NUMBER	QUANTITY ORDERED	ITEM DESCRIPTION	ITEM TOTAL	DPO TOTAL
07-17-85	387 550	66 cs	Tonic cases Coca Cola Canada Dry Sunkist Orange Rambling Root Beer	\$ 419.10	
		60 cs	Tonic cases Coca Cola Sunkist Orange Rambling Root Beer Canada Dry	381.00	
		126 cs	Deposits	151.20	
07-30-85	387 662	66 cs	Tonic cases Coca Cola Canada Dry Rambling Root Beer Sunkist Orange	419.10	\$ 951.30
		66 cs	Deposits	79.20	
10-10-85	388 243	66 cs	Tonic cases Coca Cola Rambling Root Beer Canada Dry Sunkist Orange	419.10	498.30
		66 cs	Deposits	79.20	
11-13-85	388 473	66 cs	Tonic cases Coca Cola Rambling Root Beer Canada Dry Sunkist Orange	419.10	498.30
		66 cs	Deposits	79.20	

TOTAL SPLIT PURCHASE: \$ 2446.20

According to the PAD Manual of Purchasing Policies, agencies are permitted to purchase certain items without submitting requisitions to the PAD; soft drinks constitute one of the items exempted from the requisition process. The other exempted food items consist of fresh, perishable items such as milk, fish, bakery products, fruit, and vegetables (except potatoes). While the rationale for exempting perishable items from the requisition process is clear, the rationale for exempting soft drinks from competitive procurement is not. Moreover, the Deputy Purchasing Agent stated that he had no idea why this exemption was authorized. In view of the likelihood that large amounts of soft drinks are purchased on a continuing basis by some State agencies (especially

the State schools within the Department of Mental Health), a re-examination of this exemption would seem warranted.

A final example of forgone competition concerns sole-source orders for printing in excess of \$500 issued by the State courts. Examples V and W show over-limit DPOs issued by two of the State's courts.

(EXAMPLE V)

DPO DATE	DPO NUMBER	QUANTITY ORDERED	ITEM DESCRIPTION	ITEM TOTAL	DPO TOTAL
08-19-85	552 807	10,000 5,000	Envelopes #10 Sheets of Letterhead	\$ 610.00 310.00	\$ 920.00

TOTAL PURCHASE: \$ 920.00

(EXAMPLE W)

DPO DATE	DPO NUMBER	QUANTITY ORDERED	ITEM DESCRIPTION	ITEM TOTAL	DPO TOTAL
11-25-85	554 939	50M	Envelopes	\$ 617.00	\$ 617.00

TOTAL PURCHASE: \$ 617.00

The PAD Manual of Purchasing Policies states that all printing must be purchased through the PAD with the exception of the printing of topographical maps, blueprints, photostats, photographing, multigraphing, mimeographing, addressing, and printing procured by the Bureau of Accounts in connection with forms and books for cities and towns. It also states that agencies may procure printing directly, on DPOs, if they contact the Printing Office for confirmation that the vendor is an approved vendor before issuing the DPO. The Manual makes no reference to exceptions for printing procured by the courts. However, when asked about this issue, the PAD's printing coordinator was unable to provide specific information. She did recall, however, that the PAD had "some type of setup with the courts."

If such an exemption has been made, it is not clear why. It seems

likely that the absence of competition in this case, as in the others cited above, exposes the Commonwealth to unnecessary waste.

Finding 4.

Agencies Failed To Purchase Items
From State Contracts, Overpaying As A Result
By As Much As 400 Percent

Although the study team did not analyze every DPO in the sample to determine whether the noncontract items purchased were available to the agencies on the State's blanket contracts, the study team did identify several cases in which agencies had issued recurrent DPOs for noncontract items which should have been purchased from blanket contracts. For example, one agency purchased the following office supplies from a noncontract vendor, despite the fact that all but the five starred items were available on the State's blanket contract for office supplies.

(EXAMPLE X)

DPO DATE	DPO NUMBER	QUANTITY ORDERED	ITEM DESCRIPTION	ITEM TOTAL	DPO TOTAL
10-02-85	468 846	3 doz	Pens	\$ 10.44	\$ 413.62
		6 doz	Pens	64.08	
		1 doz	Scotch tape	29.64	
		1 doz	Sheetlifters	13.08	
		6	Staples	10.50	
		6	Labels	21.78	
		1 doz	Ringbinders	135.60	
		6 *	Label holders	33.00	
		6 *	Label holders	39.60	
		1 *	Chair mat	55.90	
" "	468 847	2 *	Cabinets	91.90	299.72
		4 doz	Scotch tape	118.56	
		2	Scissors	7.70	
		4 doz	Pens	42.72	
		5 *	Index guides	20.75	
		2	Tape dispensers	8.04	
		1	Wall calendar	3.75	
		1	Julian calendar	6.30	

TOTAL SPLIT PURCHASE: \$ 713.34

Table A compares the prices paid by the agency with the prices the agency would have paid to the blanket contract vendor for the same items.

TABLE A
STATE AGENCY OVERPAYMENTS RESULTING FROM
OFF-CONTRACT OFFICE SUPPLY PURCHASES

ITEM DESCRIPTION	QUANTITY	STATE CONTRACT PRICE	PRICE PAID BY AGENCY	PERCENT OVERPAID
Black Papermate stick pens	3 doz.	\$ 6.18	\$ 10.44	69%
Black Papermate retractable pens	10 doz.	20.00	106.50	434
Scotch tape	5 doz.	48.60	148.20	205
Sheetlifters for 1" ring binder	1 doz.	3.00	13.03	336
Staples	6	2.82	10.50	272
Pres-a-ply labels	6	8.22	21.73	165
1" Ring binders	1 doz.	23.76	135.60	471
Straight trimmer scissors	2	3.98	7.70	94
Scotch tape dispensers	2	2.42	8.04	232
Monthly calendar (12" X 12")	1	1.77	3.75	112
Monthly calendar (12" X 8")	1	3.18	6.30	281
TOTAL		\$ 123.93	\$ 472.19	281%

On average, as the table shows, the agency paid the noncontract vendor almost three times more than it would have paid the blanket contract vendor and paid well over 400 percent more for two of the items. When asked about these DPOs, the agency representative stated that she had not known that these items were available on the State's blanket contract for office supplies.

A second example consists of two DPOs for xerographic paper purchased from a noncontract vendor:

(EXAMPLE Y)

DPO DATE	DPO NUMBER	QUANTITY ORDERED	ITEM DESCRIPTION	ITEM TOTAL	DPO TOTAL
07-30-85	552 302	12 ctns	Xerographic paper	\$ 280.80	\$ 280.80
10-08-85	552 305	12 ctns	Xerographic paper	280.80	280.80

TOTAL SPLIT PURCHASE: \$ 561.60

The price paid by the agency exceeded the blanket contract price for xerographic paper by 25 percent.

The agency's administrative assistant for purchasing explained that the agency had believed the vendor to be a certified small business enterprise, but then had learned that this was not the case. She stated that her agency had subsequently begun to purchase xerographic paper from the State's blanket contract for office supplies.

IMPLICATIONS OF THE SAMPLE DATA

Almost half of the 25 agencies whose DPOs appeared in the sample were responsible for one or more split purchases. The average dollar value of the split purchases identified in the sample was approximately \$900.

Using the actual number of competitive procurements made in FY 1986 and the projected number of split purchases during that same period, the study team estimates that almost a third (32 percent) of agency procurements which could and should have been made through the PAD's public bidding process in accordance with sound procurement practices were instead made directly by agencies through split purchases.⁸ This proportion appears to have been much higher for some agencies: based on the sample results, the study team estimates that more than 55 percent of the noncontract procurements costing \$500 or more which should have been bid by the Department of Mental Health, the Department of Public Health, and the Department of Youth Services appear to have been made without competition, via split purchases.⁹

The study team's sampling methodology and estimating techniques were not intended to yield precise quantitative descriptions of agency

⁸In identifying split purchases in the sample, the study team selected noncontract procurements made using recurrent DPOs which, in some cases, were issued over periods of several weeks or more. The estimate of the proportion of noncontract procurements costing \$500 or more made via split purchases, therefore, should not be construed as evidence that agencies violated clearly stated PAD rules in all cases or that all cases in which PAD requirements were violated constituted deliberate rule-breaking on the part of the agencies.

⁹The estimate of the total number of procurements which, based on sound procurement practices, should have been bid through the PAD was derived by adding two numbers: the number of noncontract agency procurements requisitioned through the PAD in FY 1986 and the number of noncontract agency procurements costing \$500 or more made directly, via split purchases, in FY 1986. The latter number was extrapolated from the sample results. Each split purchase was counted as one procurement, regardless of the number of DPOs involved.

purchasing behavior. Rather, the estimates discussed above should be regarded as yardsticks with which to assess the general magnitude of the problems outlined in this report. Nevertheless, the estimates provided above suggest that split purchases have not been confined to isolated incidents; rather, they appear to have been widespread among State agencies and frequent within some of those agencies.

The new Massachusetts Management Accounting and Reporting System (MMARS),¹⁰ which was implemented on July 1, 1986, by the Comptroller's Division and the Office of Management Information Systems, is designed to prevent some improper DPO purchases. For example, the MMARS system will not process individual DPOs for noncontract items in amounts that equal or exceed \$500. In addition, when an agency enters a DPO, the MMARS system will compare the commodity and vendor codes of the item ordered with the price agreement reference file. If a blanket contract is in effect for the item ordered, and if the item ordered is not placed with the authorized blanket contract vendor at the authorized blanket contract price, the MMARS system will not process the DPO. Thus, it appears that the MMARS system should eliminate those over-limit and off-contract purchases which are inadvertent.

However, the MMARS system is vulnerable to deliberate abuse. An agency could enter an improper commodity code number, thereby circumventing MMARS' controls over both over-limit and off-contract

¹⁰The MMARS system has decentralized the processing of financial transactions, integrated agency and central accounting, and automated the process of ordering goods and encumbering funds to pay for them. Agencies can now execute the following purchasing transactions: "price agreements" (i.e., blanket contracts), DPOs, and miscellaneous encumbrances for non-service expenses such as utility costs and travel expenses. In the case of an urgent or emergency purchase, an agency can place the DPO in a suspense file. If the PAD subsequently grants an exception, the PAD releases the DPO from the suspense file and processes it. Otherwise, the DPO is rejected. During the current fiscal year, agencies are continuing to use the manual system for preparing requisitions for items to be bid by the PAD; the central purchase order is entered into the MMARS system after the PAD has awarded the contract. Implementation of an extended MMARS purchasing system with on-line inquiry capability is planned for July 1, 1987.

purchases. In addition, the MMARS system reportedly is not programmed to reduce or eliminate existing opportunities for split purchases. According to the Deputy Purchasing Agent, the MMARS system does not detect and reject recurrent orders for the same item from the same noncontract vendor, even if the orders are placed within minutes of each other. Similarly, the MMARS system does not track or aggregate the DPOs entered by various subunits of a given agency. Thus, the MMARS system, by itself, does not deter agencies from deliberately splitting their purchases, nor does it alert agencies that they are making recurrent purchases of supplies that should be aggregated and submitted on a single purchase requisition to the PAD.

Moreover, according to the MMARS Procedures Manual, the PAD no longer reviews and approves agency DPOs for compliance with PAD requirements: if the MMARS system does not reject an agency's DPO, the DPO is approved. Since the likelihood of detection is low, and there are no sanctions for deliberate agency circumvention of PAD requirements, agencies may continue to conclude that their reasons for deliberately splitting their purchases remain compelling.

In addition to the need for improved PAD controls and sanctions, the study team's findings clearly indicate that confusion and misinformation about what effective purchasing entails are widespread at the agency level. Many of the agency purchasing officials interviewed appeared unaware of or misinformed about the proper use of DPOs for purchasing items not available on the State's blanket contracts. As noted above, some agency officials maintained that the \$500 DPO ceiling applied only to same-day purchases; others, that the ceiling applied only to purchases of identical items; others, that the ceiling applied to an agency's individual organizational units but not to the agency as a whole; and still others, that since the PAD had approved and processed their DPOs, their DPOs must have been permissible under current PAD requirements. Apparently, these interpretations of the PAD's policies governing the use of DPOs led some agency purchasing officials to believe that their split

purchases were appropriate. In fact, according to the Deputy Purchasing Agent, all of the foregoing interpretations were incorrect.

Agency purchasing officials also appeared confused or uninformed about efficient methods of planning for, scheduling, and initiating procurements of frequently purchased supplies. For example, despite the fact that blanket contracts enable agencies to procure supplies quickly, conveniently, and competitively, many agency purchasing officials stated that they rarely initiated requests to the PAD for blanket contracts. Their reasons for failing to do so tended to fall into two categories: either the agency officials did not know how or under what circumstances to initiate a blanket contract request, or they perceived PAD buyers as being "too overworked" to respond to such a request. Consequently, the agency purchasing officials faced with the need to procure supplies at regular intervals tended to resort to splitting their purchases -- a practice which was expedient for the agency but inefficient for the State as a whole.

CONCLUSION AND RECOMMENDATIONS

The evidence presented in the preceding pages strongly suggests that the State's centralized competitive purchasing system has been broadly vulnerable to both deliberate and inadvertent agency circumvention, and will continue to be vulnerable unless existing controls are strengthened. This review has also shown that some of the PAD's purchasing policies have not maximized opportunities for achieving open competition in agency procurements.

To increase the effectiveness of its procurement policies and procedures, the apparent underlying causes of agencies' undesirable purchasing behavior must be addressed. Recommendations for taking both types of needed actions are offered below.

Recommendation #1: The Legislature should enact the Inspector General's State procurement bill.

As noted in the State Auditor's 1979 report on the State's centralized purchasing system, the Commonwealth's purchasing statutes are a hodgepodge of antiquated, incomplete, and incoherent provisions which contribute to agencies' confusion and fail to provide the PAD with a clear mandate of stewardship. The Inspector General has filed a bill, House No. 140, which would replace these provisions with clear, consistent, efficient procedures for State purchases of supplies. House No. 140 would authorize agency purchasing officials to procure directly supplies in amounts up to \$5,000; for supply procurements of \$1,000 or more, agency purchasing officials would be required to seek at least three written or oral quotations. Supply contracts in the amount of \$5,000 or more would be awarded on a competitive basis by the State Purchasing Agent under explicit procedures for soliciting, evaluating, and selecting competitive sealed bids or proposals.

The Inspector General's bill also contains provisions for emergency supply procurements: whenever the time required to comply with the

procedures set forth in the bill would present a danger to health or safety, the Purchasing Agent would be authorized to make an emergency procurement without following the procedures. The Purchasing Agent would be required to document each emergency procurement and submit a copy of this record at the earliest possible time to the Secretary of State for publication in the Goods and Services Bulletin.

To deter abuse, House No. 140 provides a civil penalty for violations of the bill's provisions. Each person who causes or conspires to cause a contract to be solicited or awarded in violation of any provision of the purchasing bill, or regulations promulgated by the PAD under the bill, would be subject to a fine of up to \$2,000 for each violation. In addition, violators would pay double the amount of damages sustained by the Commonwealth as a consequence of the violation, together with the costs of any legal actions pursued by the Commonwealth.

The Inspector General's bill addresses State agencies' need for increased purchasing authority and flexibility, thereby reducing their incentive to split purchases. At the same time, the bill contains appropriate, enforceable sanctions for abuse of that authority. By increasing the size of the contracts competitively procured by the PAD from \$500 to \$5,000, the bill would enable the PAD to allocate its limited resources more efficiently. And by setting forth clear, workable requirements governing supply procurements, House No. 140 would provide a much-needed framework for the PAD to develop a consistent set of detailed policies and procedures to guide agency purchasing officials as well as the PAD. The Inspector General urges the Legislature to enact House No. 140.

Recommendation #2: The PAD should prepare a comprehensive plan for improving its purchasing operations.

The plan should identify strategies for addressing the problems identified in the preceding pages. These problems include the ambiguity and inefficiency of some PAD policies and procedures; the inadequacy of

current MMARS system controls over agency abuses and errors; the PAD's inability to conduct systematic postaudits of agency compliance; and the widespread confusion and misinformation at the agency level regarding proper procurement practices. For each strategy, the plan should specify the work steps required for implementation, the target completion dates, and the PAD staff who will be responsible for managing the work steps. Such a plan would be a valuable internal tool for planning improvements to PAD operations, committing all participants to the implementation of specific strategies, and managing the implementation process.

Recommendation #3: The PAD should issue a new manual which clarifies its requirements and policies.¹¹

Although the current version of the PAD's Manual of Purchasing Policies was issued in 1976, the Manual is virtually identical to the 1959 edition. In twenty-eight years, the State's procurement philosophy and requirements have changed dramatically. It is therefore recommended that the PAD re-examine, clarify, and update the policies and procedures contained in this document.

Controls and sanctions in response to abuse cannot be administered fairly or effectively if the PAD does not specify its requirements and policies. Clearly, for example, the time period within which recurrent purchases of identical or equivalent noncontract items are prohibited must be stated unambiguously so that agencies will understand the types of procurements which constitute split purchases. Of course, specifying this time period will inevitably motivate some agencies to issue recurrent DPOs just beyond that period. However, those agencies which currently circumvent PAD requirements primarily because those requirements are unclear can be expected to comply with clear decision rules.

¹¹On February 20, 1987, a preliminary draft of a State purchasing manual was delivered to the Inspector General.

The PAD's exception policies and procedures also need scrutiny and clarification. The Manual of Purchasing Policies authorizes State agencies to make emergency purchases "when necessary to protect life and property"; the MMARS Procedures Manual for Departments also contains this definition of an emergency. Strictly construed, this criterion would not allow agencies to make emergency purchases if only life or only property were at risk. According to the Deputy Purchasing Agent, agencies with urgent procurement requirements can call the PAD for special permission to forgo the requisition process. However, neither manual contains specific criteria for the PAD to use in granting non-emergency exceptions.

According to the Deputy Purchasing Agent, only he and the Purchasing Agent are authorized to approve exceptions to PAD purchasing requirements. However, this policy is not reflected in the MMARS Procedures Manual for Departments, which simply advises agencies requesting permission to make emergency purchases or "accelerated acquisitions" to contact the PAD. Moreover, the latter category is so broad in scope and vaguely defined that it invites waste and abuse.

The PAD's revised Manual of Purchasing Policies should both narrow the criteria and clarify the procedures for granting the various types of exceptions to PAD requirements. In addition, the PAD should authorize one or two specific PAD officials to approve exceptions. To the extent that the PAD's exception procedures operate consistently and efficiently, agencies which in fact encounter genuinely extenuating circumstances will be motivated to use these procedures rather than to circumvent PAD requirements.

Finally, the PAD's exemption policies need to be re-examined and clarified. For example, the Manual of Purchasing Policies states that agency purchases of soft drinks are exempt from the \$500 DPO ceiling; however, PAD officials are unable to state the origin of or reasons for this exemption. If PAD officials do not have a compelling rationale for exempting soft drinks from competition, this policy should be changed.

Similarly, the Manual's confusing reference to "repair parts," which implies that items in this category are also exempt from competition, should be clarified. (See Finding 2.) The PAD should review all other current exemptions and justify each in its revised Manual of Purchasing Policies.

Recommendation #4: The PAD should explore the feasibility of reducing the maximum processing time for purchase requisitions to 30 days.

As noted in the preceding analysis, the PAD's current internal performance standards call for a 60-day processing time for simple requisitions and a 90-day processing time for complicated requisitions. According to PAD officials, the PAD could expedite the processing of purchase requisitions by assigning additional staff to this function. To determine whether this approach is reasonable, it is recommended that the PAD invest staff resources -- or, if necessary, sufficient funds for consulting services -- in a comprehensive analysis of the processing function itself. This analysis should yield detailed information with respect to the number of purchase requisitions processed by the PAD, the ranges of times required by the PAD to process purchase requisitions, and the frequency and nature of delays in processing purchase requisitions; all of these data should be broken down by commodity type, cost, and whatever additional variables emerge from the analysis. The foregoing information would then enable the PAD to isolate the critical inefficiencies in the purchase requisition process and to address them as part of the comprehensive improvement plan discussed in Recommendation #2, above. By lowering the time required to process purchase requisitions from 60 days to 30 days, the PAD would greatly reduce the existing incentives for agencies to circumvent the requisition process.

Recommendation #5: The PAD should improve the coverage and continuity of State blanket contracts.

Blanket contracting is the most effective vehicle for maximizing competition in procurements while also serving agencies' need for speed

and convenience. According to PAD officials, two full-time specification engineers have been assigned responsibility for improving the PAD's performance in the area of blanket contracts by restructuring existing blanket contracts and by creating new blanket contracts.

To supplement these activities, it is recommended that the PAD solicit systematic feedback from agency purchasing officials regarding the limitations and deficiencies of existing blanket contracts. In addition, the PAD might consider notifying agencies of the PAD's interest in creating new blanket contracts and soliciting agency recommendations with regard to candidates for such contracts. Many of the agency officials interviewed stated that certain frequently purchased items would be appropriate candidates for blanket contracts; however, they acknowledged that they had not recommended to the PAD that blanket contracts be initiated for these items because they perceived the PAD as being too "overworked" to respond to such recommendations. Providing a mechanism for agencies to recommend candidates for blanket contracts would encourage agencies to examine their own procurement patterns more closely while enabling the PAD to take efficient advantage of agencies' knowledge and experience. Finally, to enable agencies with limited storage space to make better use of blanket contracts, it is recommended that the PAD study the feasibility of operating a central warehouse for storage of blanket contract items.

Recommendation #6: The PAD should improve its efforts to communicate with and train agency purchasing officials.

PAD officials acknowledged that training by the PAD has been insufficient and that the PAD had not requested additional staff positions for training. The findings outlined in the foregoing pages point up a critical need for improved PAD communication with and training of agency purchasing officials and staff. The interviews with agency purchasing officials revealed numerous cases in which an agency's failure to comply with PAD requirements apparently resulted from confusion and misinformation regarding those requirements, rather than from a

purchasing official's decision to flout them. These problems have been exacerbated by high rates of turnover within some agencies' purchasing offices, transmission of misinformation to new agency personnel, and entrenched purchasing habits and traditions.

Many agency personnel expressed the desire for more information regarding the proper way to procure supplies on DPOs. "The Purchasing Agent's Division totally relies on us to do appropriate planning," complained one agency business manager, "but we're going by the seat of our pants." Another business manager recalled that the PAD had held an excellent training seminar about five years ago, but had not repeated the seminar since then. Several business managers suggested that a workbook or procedures manual which explicitly defined the PAD's requirements would be valuable to them and their staffs. (See Recommendation #3, above.)

According to the Deputy Purchasing Agent, he and the Purchasing Agent planned to devote more time to preparing training materials and conducting training sessions if the PAD's budget request for additional personnel to assist the buyers was granted. While the involvement of top PAD officials in the design and approval of training activities and materials seems entirely appropriate, these officials are unlikely to be able to devote significant time to these tasks because of the exigencies of their other duties. Therefore, it is recommended that the PAD assign responsibility for planning and executing a comprehensive training program to full-time PAD staff -- if necessary, with the assistance of outside consultants -- until agency purchasing officials throughout the State have been thoroughly briefed with regard to the PAD's current policies, requirements, and procedures. It is also recommended that PAD officials designate one or two PAD staff as agency liaisons who will henceforth assume primary responsibility for responding to questions from agency personnel on a day-to-day basis.

In addition to detailing the policies and procedures to which agencies are expected to adhere, the PAD's training efforts should

encompass the broader area of procurement planning. The PAD can begin to increase the level of professionalism within agency purchasing units by promoting efficient practices, such as forecasting usage of frequently purchased items; consolidating small, noncompetitive purchases into large, competitive procurements; and requesting that the PAD initiate agency agreements or blanket contracts for high-volume items.

Recommendation #7: The Administration should create an internal audit unit within the Executive Office for Administration and Finance.

The foregoing recommendations have focused on the need for strengthened PAD controls and sanctions, clarification of PAD policies and requirements, more efficient management systems within the PAD, and improved PAD outreach to agencies. However, implementation of all these recommendations will not obviate the need for periodic operational audits and analyses of the effectiveness of the State's purchasing system.

The vulnerability revealed by the Inspector General's preliminary analysis of State purchasing suggests that the public interest would be well served by periodic detailed analyses of the purchasing function conducted by an objective outside agency or unit. The Executive Office for Administration and Finance currently lacks an internal management audit unit and, thus, the capacity to evaluate on an ongoing basis the effectiveness of the Purchasing Agent's management systems and procedures.

According to PAD estimates, the PAD spent approximately \$680 million during the past fiscal year and will spend over \$700 million during the current fiscal year. Any private corporation which purchased some \$700 million worth of materials, supplies, and equipment annually on behalf of hundreds of decentralized user agencies certainly would review the performance of that purchasing system periodically through systematic internal management reviews and audits. In view of the PAD's enormous fiscal responsibility and the Commonwealth's evident vulnerability to waste and abuse in the procurement area, the creation within the

Executive Office for Administration and Finance of an effective internal audit unit would clearly constitute a sound investment of public resources. Such a unit could provide valuable management reviews of many other major administrative functions, each of which handles hundreds of millions of dollars. The Inspector General would be pleased to work with Administration officials to plan and implement such a unit.

APPENDIX A
SAMPLE METHODOLOGY

In conducting this analysis, the Inspector General's study team first drew a systematic sample of the FY 1986 Departmental Purchase Orders (DPOs) contained in the files of the Comptroller's Division on February 24, 1986, excluding all DPOs issued by institutions of higher education. (These DPOs were excluded because the purchasing procedures followed by higher education institutions differ radically from those followed by other State agencies.) The sampled DPOs had been approved by the PAD, and the Comptroller's Division had encumbered the necessary funds for the amounts shown on the DPOs.

The study team reviewed all DPOs in every tenth folder on file within the Comptroller's Division, excluding those folders in which DPOs from higher education institutions comprised more than 50 percent of the total number of DPOs. If a folder was thus excluded, the next folder was sampled. If a series of agency DPOs continued from a sampled folder into the subsequent or prior folder, the study team reviewed the agency's DPOs in the subsequent or prior folder until DPOs from a different agency appeared. The purpose of this procedure was to ensure that, for each agency appearing in the sample, the study team included all DPOs which might comprise a "split purchase." The total number of agency DPOs in our sample was 6,760, or approximately nine percent of State agency DPOs (excluding higher education DPOs) processed by the PAD during FY 1986.

Next, the study team manually reviewed all the sample DPOs, setting aside for further scrutiny those which appeared as though they might have been part of deliberate or inadvertent split purchases.

Finally, the study team interviewed by telephone the agency purchasing officials responsible for most of the split purchases and other questionable purchase practices found in the sample to determine the accuracy of the information on the questionable DPOs, to elicit purchasing officials' explanations for these DPOs, and to explore their

perceptions of the PAD's current requirements governing the agencies' use of DPOs in making purchases: the study team discussed the content of these interviews with the Deputy Purchasing Agent and some of his staff.

